

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RILEY FRANZ, and JEFFREY FRANZ
and BRANDI FRANZ, as NEXT FRIEND
for ISABELLA FRANZ, a Minor,

Plaintiffs,

v

Hon. Mark A. Goldsmith
Magistrate Anthony P. Patti
No. 21-12871

OXFORD COMMUNITY SCHOOLS,
NICHOLAS EJAK, and SHAWN HOPKINS,

Defendants.

**DEFENDANTS'
REPLY IN SUPPORT
OF MOTION TO STAY**

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James J. Harrington (P65351)
Robert G. Kamenec (P35283)
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SANDRA A. CUNNINGHAM, Next Friend
of P.A., a minor,

Plaintiff,

v

Hon. Mark A. Goldsmith
Magistrate Anthony P. Patti
No. 22-11398

OXFORD COMMUNITY SCHOOLS,
NICHOLAS EJAK and SHAWN HOPKINS,

Defendants.

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NICOLETTE ASCIUTTO, as Next
Friend of JOHN ASCIUTTO and
ANTHONY ASCIUTTO II, minors;
and JOHN VACKARO as Next Friend
of MARCO VACKARO, a Minor,

Plaintiffs,

v

Judge Mark A. Goldsmith
Magistrate Anthony P. Patti
No. 22-10407

OXFORD COMMUNITY SCHOOLS,
NICHOLAS EJAK, and
SHAWN HOPKINS,

Defendants.

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NICOLE BEAUSOLEIL, Personal
Representative of the Estate of Madisyn
Baldwin, Deceased,

Plaintiff,

v

Hon. Mark A. Goldsmith
Magistrate David R. Grand
No. 22-11250

OXFORD COMMUNITY SCHOOLS,
NICHOLAS EJAK and SHAWN HOPKINS,

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G.J., a Minor, by his Next Friend,
Andrea Jones, et al,

Plaintiffs,

Judge Mark Goldsmith

v

No. 22-11360

OXFORD COMMUNITY SCHOOLS,
NICHOLAS EJAK and SHAWN HOPKINS,

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MATTHEW MUELLER and MARY
MUELLER as Co-Next Friends for
E.M., a minor,

Hon. Mark Goldsmith
No. 22-11448

Plaintiff,

v

OXFORD COMMUNITY SCHOOLS,
SHAWN HOPKINS, NICHOLAS EJAK,
and ACME
SHOOTING GOODS, LLC,

Defendants.

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WILLIAM MYRE, and SHERI MYRE,

as co-personal representatives of the Estate
of T.M., Deceased; CRAIG SHILLING, and
JILL SOAVE, as co-personal representatives
of the Estate of J. S., Deceased; CHAD
GREGORY, as Next Friend for K. G., a minor;
LAUREN ALIANO, as Next Friend for S.K.,
a minor, and G.K., a minor; and LAURA LUCAS,
as Next Friend for A.S., a minor,

Plaintiffs,

Judge Mark A. Goldsmith

v

No. 22-11113

OXFORD COMMUNITY SCHOOLS,
NICHOLAS EJAK, and SHAWN HOPKINS,

Defendants.

VEN JOHNSON (P39219)
JEFFREY T. STEWART (P24138)
KANWARPREET S. KHAHRA (P80253)
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KYLIE OSSEGE,

Plaintiff,

v

Hon. Mark A. Goldsmith

Magistrate Judge Anthony P. Patti

No. 22-11251

OXFORD COMMUNITY SCHOOLS,
NICHOLAS EJAK and SHAWN HOPKINS,

Defendants.

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STEVE ST. JULIANA, Personal
Representative of the Estate of HANA
ST. JULIANA, deceased, and REINA
ST. JULIANA, a minor, by her NEXT
FRIEND, STEVE ST. JULIANA,

Plaintiffs,

v

Judge Mark A. Goldsmith
Magistrate Judge Anthony P. Patti
No. 22-10805

OXFORD COMMUNITY SCHOOLS,
NICHOLAS EJAK, and
SHAWN HOPKINS,

Defendants.

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JARROD WATSON, and LINDA WATSON,
as co-Next Friends for A.W., a minor; and
JARROD WATSON and LINDA WATSON,
Individually,

Plaintiffs,

Judge Mark A. Goldsmith

v

No. 22-11959

OXFORD COMMUNITY SCHOOLS,
NICHOLAS EJAK, and
SHAWN HOPKINS,

Defendants.

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1. THIS COURT SHOULD GRANT DEFENDANTS' MOTION SINCE ANY OPPOSITION TO THE RELIEF SOUGHT IN DEFENDANTS' MOTION IS WAIVED.

Local Rule 7.1(e)(1)(A) states that “Responses to all motions ... must be filed within 14 days after service of the motion.” Here, Defendants filed their motion to stay all proceedings and discovery pending appeal of the qualified immunity issue on June 2, 2023. (ECF No. 150). Pursuant to Local Rule 7.1(e)(1)(A), Plaintiffs’ response was due on or before **June 16, 2023**. To date, Plaintiffs have not filed a response to Defendants’ Motion.

Based on Plaintiffs’ failure to respond and to oppose the arguments made in Defendants’ Motion, this Court should assume that any opposition to the relief sought in the Motion is waived. *See Sulfridge v. Huff*, ___F. Supp. 2d___, 2007 WL 1319278 (E.D. Tenn. May 3, 2007)(granting the defendant’s motion to stay discovery while the qualified immunity issue was on appeal since the plaintiff failed to respond to the motion which was deemed a waiver of any opposition to the relief sought); *see also Humphrey v. U.S. Attorney Gen.’s Office*, 279 F. App’x 328, 331 (6th Cir. 2008)(finding that a plaintiff’s failure to oppose arguments raised in the defendant’s motion to dismiss was grounds for the district court to assume that opposition to the motion was waived). Therefore, Defendants’ unopposed Motion should be granted.

CONCLUSION

For all the reasons stated above, and those stated in Defendants' Motion to Stay, this Court should grant Defendants' Motion and stay all discovery and proceedings pending the Sixth Circuit's decision of the qualified immunity issue on appeal.

/s/TIMOTHY J. MULLINS
GIARMARCO, MULLINS & HORTON, PC
Attorney for Oxford Defendants

DATED: June 21, 2023

CERTIFICATE OF ELECTRONIC SERVICE

TIMOTHY J. MULLINS states that on June 21, 2023, he did serve a copy of **Defendants' Reply in Support of Motion to Stay** via the United States District Court electronic transmission.

/s/TIMOTHY J. MULLINS
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